

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 152

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO HIGHWAYS; AMENDING SECTIONS OF CHAPTER 67 NMSA 1978
TO PROVIDE FOR COMMERCIAL GOODS AND SERVICES ON DEPARTMENT OF
TRANSPORTATION FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 67-3-12 NMSA 1978 (being Laws 1929,
Chapter 110, Section 1, as amended) is amended to read:

"67-3-12. POWERS AND DUTIES.--In addition to the powers
now conferred upon it by law, the state transportation
commission shall have the power and authority to:

A. declare abandoned and to close to public traffic
all grade crossings of railroads by state highways in cases
where grade separations or other adequate crossings are
substituted therefor or where such grade crossings become
unnecessary to the public convenience by reason of changes in

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1 highway locations;

2 B. offer and upon compliance with the conditions of
3 such offer to pay rewards for information leading to the arrest
4 and conviction of offenders in cases of theft, defacement or
5 destruction of markers or highway signs, lights or other
6 warning devices placed upon or along highways of this state
7 under the supervision of the state transportation commission
8 and for information leading to the arrest and conviction of
9 offenders or for the return of property in case of theft or
10 unlawful damaging of property under the control of the
11 commission. All such rewards when paid shall be paid from the
12 state road fund upon voucher drawn by the [~~state highway~~
13 ~~engineer~~] secretary of transportation or other authorized
14 officer or agent of the department;

15 C. prescribe by rules and regulations the
16 conditions under which pipelines, telephone, telegraph and
17 electric transmission lines and ditches may be hereafter placed
18 along, across, over or under all public highways in this state
19 and to forcibly remove or cause to be removed any such
20 pipelines, telephone, telegraph or electric transmission lines
21 or ditches which may hereafter be placed along, across, over or
22 under such public highways in violation of such rules and
23 regulations;

24 D. employ an attorney to assist and advise the
25 state transportation commission and all of the employees and

underscored material = new
[bracketed material] = delete

1 agents thereof in the discharge of their duties and to appear
2 and represent the interests of the commission or its employees
3 in any case before any court or tribunal in which the official
4 duties, powers, rights or privileges of the commission or any
5 of its employees or agents may be involved or affected and to
6 pay such attorney the reasonable value of his services out of
7 the state road fund;

8 E. bring and maintain in the name of the state all
9 actions and proceedings deemed necessary by the state
10 transportation commission for the condemnation of rights of way
11 for public highways or for the removal or condemnation of
12 buildings or other improvements that encroach in whole or part
13 upon the rights of way of public highways or for the
14 condemnation of gravel pits or other deposits of materials or
15 supplies suitable for the construction of public highways.

16 The attorney general of New Mexico shall appear in and
17 prosecute all such cases on behalf of the state upon request of
18 the state transportation commission. All such proceedings
19 shall be conducted in the same manner as other cases for the
20 condemnation of real property. The damages assessed in
21 proceedings brought under the provisions of this section shall
22 be paid out of the state road fund from money furnished for
23 that purpose by cooperative agreement between the state,
24 federal government and the county within which the condemned
25 property is situate or any such governmental bodies or out of

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1 money furnished for the construction of the highway in
2 connection with which the condemnation is had, by the county in
3 which the condemned property is situate; provided, however,
4 that if no such money is available, the damages shall be
5 advanced on behalf of said counties out of their money in the
6 state road fund and the state treasurer shall thereafter
7 reimburse the state road fund for the money advanced out of the
8 next installment of money from motor vehicle license fees
9 accruing to the road fund of the county for which such funds
10 were so advanced; [~~and~~]

11 F. designate in its discretion one of its employees
12 as acting secretary to act at all times when the secretary is
13 absent from the state capital. The acting secretary, when
14 designated, has the right and is hereby given authority at all
15 times when the secretary is absent from the state capital to
16 sign all federal project statements, federal project agreements
17 and federal vouchers with the same force and effect as if
18 signed by the secretary in person, and the certificate of the
19 acting secretary attached to any federal project statement,
20 federal project agreement or federal voucher to the effect that
21 the secretary was absent from the state capital at the time
22 that the same was so signed by the acting secretary shall be
23 conclusive evidence of the truth of such fact. The acting
24 secretary may also be vested by the state transportation
25 commission with power and authority to act for the secretary in

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1 such other matters as the state transportation commission may
 2 determine; and

3 G. may conduct, permit or authorize commercial
 4 enterprises or activities on department-owned land or land
 5 leased to or from the state for the purpose of providing goods
 6 and services to the users of the property or facilities. In
 7 furtherance of these activities, the commission may authorize
 8 the sale, exchange or lease of department property as it deems
 9 necessary. Any proceeds or payments that are derived from
 10 these activities shall be deposited into the state road fund.
 11 In connection with the development of any department-owned or
 12 controlled property, the commission shall adopt rules necessary
 13 to carry out the provisions of this subsection."

14 Section 2. Section 67-11-9 NMSA 1978 (being Laws 1957,
 15 Chapter 234, Section 9, as amended) is amended to read:

16 "67-11-9. [~~LOCAL SERVICE ROADS~~] COMMERCIAL ENTERPRISES OR
 17 ACTIVITIES.--Commercial enterprises or activities [~~shall not~~]
 18 may be conducted, permitted or authorized on [publicly owned]
 19 department-owned land or land leased [by] to or from the
 20 department, including controlled-access facilities or land
 21 owned or leased to or from the state, a county, city, town or
 22 village highway [authorities] authority or by any other
 23 governmental agency for the purpose of providing goods and
 24 services to the [users of the controlled-access facilities,
 25 and] public, including gasoline service stations or other

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 [bracketed material] = delete

1 commercial establishments [~~shall not~~] that may be built on
2 department-owned land or the property acquired for or in
3 connection with the controlled-access facilities. [~~However~~] In
4 connection with the development of any department-owned land,
5 including a controlled-access facility, the state, county,
6 city, town or village highway authorities are authorized to
7 plan, designate, establish, use, regulate, alter, improve,
8 maintain and vacate local service roads and streets or to
9 designate as local service roads and [~~street~~] streets any
10 existing road or street in such manner as to facilitate the
11 establishment and operation of competitive gasoline service
12 stations and other commercial enterprises on private property
13 abutting the service roads and streets. The state
14 transportation commission is authorized to exercise
15 jurisdiction over service roads and streets in the same manner
16 as is authorized over controlled-access facilities under the
17 terms of Chapter 67, Article 11 NMSA 1978. [~~Such~~] The local
18 service roads and streets shall be of appropriate design and
19 shall be separated from the controlled-access facility proper
20 by means of all devices designated as necessary or desirable by
21 the proper authority."